

## **MEMORANDUM**

### **Texas Department of Human Services \* Long Term Care/Policy**

**TO:** LTC-R Regional Directors-Section/Unit Managers  
Home and Community Support Services Agencies (HCSSA) Program  
Administrators

**FROM:** Marc Gold, Director  
Long Term Care Policy  
State Office MC: W-519

**SUBJECT:** Regional Survey & Certification Letter #00-24

**DATE:** October 6 , 2000

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The attached RS&C Letter is being provided to you for information purposes and should be shared with all professional staff.

- RS&C Letter No. 00-24 -- Balanced Budget Refinement Act (BBRA) of 1999, Section 521, as Incorporated into P.L. 106-113, Enacted November 29, 1999: Clarification on Nonapplicability of Certain Provisions of Discharge Planning Process to Medicare + Choice Plans; Call The Texas Department of Health, Health Facility Licensing and Compliance Division, at (512) 834-6650.

If you have any questions, please direct inquiries to the individuals or sections listed above.

- Original Signature on File -

Marc Gold

Attachment



**Department of Health & Human Services**  
**Health Care Financing Administration**

Division of Medicaid and State Operations, Region VI

1301 Young Street, Room 833  
Dallas, Texas 75202  
Phone (214) 767-6301  
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September 19, 2000

REGIONAL SURVEY AND CERTIFICATION LETTER NO. 00-24

TO: All State Survey Agencies (Action)  
All Title XIX Single State Agencies (Information)

SUBJECT: Balanced Budget Refinement Act (BBRA) of 1999, Section 521, as Incorporated into P.L. 106-113, Enacted November 29, 1999: Clarification on Nonapplicability of Certain Provisions of Discharge Planning Process to Medicare + Choice Plans.

This memorandum is to inform you of the recent statutory changes set forth by Section 521 of the BBRA of 1999, P.L. 106-113, which clarifies the non-discrimination in post-hospital referral to home health agencies (HHAs) and other entities as enacted by Section 4321(a) of the Balanced Budget Act (BBA) of 1997, an amendment of section 1861(ee) of the Social Security Act (the Act).

Section 521 of the BBRA clarifies post-hospital referrals for patients in Managed Care plans by specifying that hospitals are required to provide information to managed care patients on the availability of home health services or other post hospital services only to the extent that the individual providers or entities have a contract with the managed care organizations.

The amendment reads as follows:

- (3) With respect to a discharge plan for an individual who is enrolled with a Medicare+Choice organization under a Medicare+Choice plan and is furnished inpatient hospital services by a hospital under a contract with the organization –*
- C the discharge planning evaluation under paragraph (2)(D) is not required to include information on the availability of home health services through individuals and entities which do not have a contract with the organization; and*
  - C notwithstanding subparagraph (H)(I), the plan may specify or limit the provider (or providers) of post-hospital home health services or other post-hospital services under the plan..*

This provision is effective upon enactment, meaning it applies to all discharges occurring on or after November 29, 1999.

This does not mean that Medicare managed care organization (MCO) members in particular are denied the freedom of choice to which they are entitled under section 1802

of the Act. Medicare beneficiaries exercise their freedom of choice when they voluntarily enroll in the MCO and agree to adhere to the plan provisions on coverage. To alleviate confusion, hospitals can provide MCO patients with a list of available and accessible HHAs approved by the MCO. Another option is, when discussing discharge planning with patients, hospitals can determine whether the beneficiary has made any prior commitments through enrollment in a MCO. Where this is the case, the patient should be informed of the potential consequences of going outside the plan for services.

HCFA proposed changes to the hospital conditions of participation (CoPs) on December 19, 1997. The proposed rule included language to incorporate the BBA changes. Within the final hospital CoP, which we expect to publish the end of the year, HCFA will incorporate both the BBA and BBRA provisions regarding post-hospital referrals to home health agencies.

If you have any questions, please contact Jann Caldwell, of my staff, at (214) 767-4401.

Sincerely,

- Signature on File -

Molly Crawshaw, Chief  
Survey and Certification Operations Branch  
Division of Medicaid and State Operations